

## CITY OF ALAMEDA

### Memorandum

To: Honorable Mayor and  
Members of the City Council

From: Lara Weisiger  
City Clerk

Date: December 20, 2011

Re: Introduce an Ordinance Amending the Alameda Municipal Code by Revising Section 2-1.2(a) (Agendas) and 2-1.3 (Special Meeting) of Article I (The City Council); Adding Section 2-5 (Applicability of Sunshine Ordinance) and Section 2-22 (Open Government Commission) to Article II (Boards and Commissions); and Amending Section 2-93.1 (Primary Regulatory and Enforcement Body) of Article VIII (Sunshine Ordinance) of Chapter II (Administration), Making Sections Compatible with the Sunshine Ordinance and Moving the Establishment, Membership and Duties of the Open Government Commission

---

### BACKGROUND

On April 5, 2011, the City Council passed an ordinance replacing Article II (Boards and Commissions) of Chapter II (Administration) of the Municipal Code in order to address inconsistencies in the organizing language pertaining to boards and commissions. The City Council passed the Sunshine Ordinance on November 1, 2011. The Sunshine Ordinance established an Open Government Commission in Section 2-93.1.

### DISCUSSION

The provisions of Section 2-93.1 of the Sunshine Ordinance are being moved to Section 2-22 to have the Open Government Commission be included with, and match the format of, other boards and commissions. In addition, provisions regarding meetings under Article I (The City Council) contradicted the timeline in the Sunshine Ordinance. The proposed revisions to Sections 2-1.2(a) and 2-1.3 eliminate the timelines and instead reference the Sunshine Ordinance. Lastly, a provision is being added at the beginning of Article II (Boards and Commissions) to create a reference to the Sunshine Ordinance since it applies to boards and commissions.

### FINANCIAL IMPACT

None.

RECOMMENDATION

Introduce an Ordinance amending the Alameda Municipal Code by revising Section 2-1.2(a) (Agendas) and 2-1.3 (Special Meeting) of Article I (The City Council); adding Section 2-5 (Applicability of Sunshine Ordinance) and Section 2-22 (Open Government Commission) to Article II (Boards and Commissions); and amending Section 2-93.1 (Primary Regulatory and Enforcement Body) of Article VIII (Sunshine Ordinance) of Chapter II (Administration), making sections compatible with the Sunshine Ordinance and moving the establishment, membership and duties of the Open Government Commission.

Respectfully submitted,

  
Lara Weisiger  
City Clerk

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_

AMENDING THE ALAMEDA MUNICIPAL CODE BY REVISING SECTION 2-1.2(a) (AGENDAS) AND 2-1.3 (SPECIAL MEETING) OF ARTICLE I (THE CITY COUNCIL); ADDING SECTION 2-5 (APPLICABILITY OF SUNSHINE ORDINANCE) AND SECTION 2-22 (OPEN GOVERNMENT COMMISSION) TO ARTICLE II (BOARDS AND COMMISSIONS); AND AMENDING SECTION 2-93.1 (PRIMARY REGULATORY AND ENFORCEMENT BODY) OF ARTICLE VIII (SUNSHINE ORDINANCE) OF CHAPTER II (ADMINISTRATION), MAKING SECTIONS COMPATIBLE WITH THE SUNSHINE ORDINANCE AND MOVING THE ESTABLISHMENT, MEMBERSHIP AND DUTIES OF THE OPEN GOVERNMENT COMMISSION

Approved as to Form

City Attorney

BE IT ORDAINED by the Council of the City of Alameda that:

Section 1. The Alameda Municipal Code is hereby amended by amendment of Section 2-1.2(a) (Agendas) and 2-1.3 (Special Meeting) to Article I (The City Council) of Chapter II (Administration), which shall read as follows:

~~2-1.2(a) At least seventy two (72) hours before a regular meeting, the City Clerk shall post an agenda containing a brief general description of each item of business thereon and specifying the time and location of the meeting.~~  
The City Clerk shall post regular agendas pursuant to Section 2-91.5.

**2-1.3 Special Meeting**

~~A special meeting may be called by the Mayor or majority of the members of the Council by serving all members as required by general law within at least twenty four (24) hours prior to the meeting, except for emergency meetings, with written notice of the time and place thereof and the business to be transacted. No other business may be considered at such meeting.~~ A special meeting may be called pursuant to Section 2-91.4(f).

Section 2. The Alameda Municipal Code is hereby amended by addition of Section 2-5 (Applicability of Sunshine Ordinance) to Article II (Boards and Commissions) of Chapter II (Administration), which shall read as follows:

**2-5. Applicability of Sunshine Ordinance**

The provisions of Article VIII (Sunshine Ordinance) of Chapter II (Administration) shall apply to Boards and Commissions included in Article II (Board and Commissions) of Chapter II (Administration).

Section 3. The Alameda Municipal Code is hereby amended by addition of Section 2-22 (Open Government Commission) to Article II (Boards and Commissions) of Chapter II (Administration), which shall read as follows:

## **2-22 OPEN GOVERNMENT COMMISSION**

### **2-22.1 Commission Created; Purpose.**

There is hereby created a Commission which shall be known as the Open Government Commission, whose purpose shall be to advise the City Council on administration of the Sunshine Ordinance, and hear and decide complaints of violations of the Sunshine Ordinance.

### **2-22.2 Membership; Appointment; Term of Office; Removal; Vacancies.**

a. The Commission shall consist of five (5) members, all of whom shall, at the time of their appointment and continuously during incumbency, be residents of the City.

b. Each member of the City Council will appoint a Commissioner to serve on the Commission for a term that is concurrent and linked with the service of the appointing City Councilmember, but in no event shall exceed four years.

c. A member of the Commission may be removed by the vote of 4/5ths vote of the Council. A vacancy in the office of the member shall be filled for the unexpired term by the appointing City Councilmember.

### **2-22.3 Meetings; Officers; Voting.**

a. The Commission shall meet as necessary to perform the duties outlined in subsection 2-22.4. Meetings shall be held on a fiscal year schedule, running July 1 through June 30. The Commission shall have the power to establish rules for its proceedings, unless otherwise noted below in subsection 2-22.5

b. A majority of the membership shall constitute a quorum. A quorum shall be necessary for any action of the Commission.

### **2-22.4 Duties of Commission.**

It shall be the duty of the Open Government Commission to:

a. Hear and decide complaints by any person concerning alleged non-compliance with the Sunshine Ordinance;

b. Advise City Council on appropriate ways to implement the Sunshine Ordinance;

c. Develop goals to ensure practical and timely implementation of the Sunshine Ordinance;



d. Report in writing to the City Council at least once annually on any practical or policy problems encountered in the administration of the Sunshine Ordinance;

e. From time to time as the Commission sees fit, issue public reports evaluating compliance with the Sunshine Ordinance by the City or any Department, Office, or Official thereof.

f. Consider ways to informally resolve those complaints and make recommendations to the Council regarding such complaints;

g. The Commission shall approve by-laws specifying a general schedule for meetings, requirements for attendance by its members, and procedures and criteria for removing members for non-attendance as well as all enforcement petition and complaint procedures. The schedule shall provide for monthly meetings. A meeting shall be canceled if there is no matter pending.

h. The commission will meet at least semi-annually or as needed based on the receipt of an alleged complaint of violation of this ordinance. Members of the Commission shall serve without compensation.

#### **2-22.5 Composition of Commission; Special Terms, Qualifications, and Conditions**

a. Should the appointing City Council member term out of office, resign, be removed or otherwise retire from office, the appointment of his or her appointee on the Open Government Commission shall also end.

b. All members must have experience and/or demonstrated interest in the issues of citizen access and participation in local government.

c. The Commission shall select from its regular membership a Chairperson and a Vice-Chairperson, each of whom shall serve in such offices for a term of one (1) year, or until their successors are selected.

d. The Commission shall be assisted, advised and generally staffed at all meetings and functions by a licensed attorney from the City Attorney's Office and by a representative of the City Clerk's office.

Section 4. The Alameda Municipal Code is hereby amended by amendment of Section 2-93-1 (Primary Regulatory and Enforcement Body) to Article VIII (Sunshine Ordinance) of Chapter II (Administration), which shall read as follows:

#### **2-93.1 Primary Regulatory and Enforcement Body**

~~The main work of enforcing the City of Alameda's Sunshine Ordinance will fall upon an Alameda Open Government Commission consisting of five (5) members, full-time City residents. Each member of the City Council will appoint an Alameda resident to serve on the commission for a four (4) year term that is concurrent and linked with the service of the appointing City Council member. Should the appointing City Council member term out of office, resign, be removed or otherwise retire from office, the appointment of his or her appointee~~

~~on the Open Government Commission shall also end. All members must have experience and/or demonstrated interest in the issues of citizen access and participation in local government. The Commission shall be assisted, advised and generally staffed at all meetings and functions by a licensed attorney from the City Attorney's Office and by a representative of the City Clerk's office.~~

~~(a) A member can only be removed by a 4/5 majority vote of the City Council.~~

~~(b) The Commission shall elect a chair from among its members. The term of office as chair shall be one year. The commission will meet at least semi-annually or as needed based on the receipt of an alleged complaint of violation of this ordinance. Members of the Commission shall serve without compensation.~~

~~(c) The Commission shall advise the City Council on appropriate ways in which to implement this chapter. The Commission shall develop goals to ensure practical and timely implementation of this chapter. The Commission shall propose to the City Council amendments to this chapter. The Commission shall report in writing to the City Council at least once annually on any practical or policy problems encountered in the administration of this chapter. The Commission shall, from time to time as it sees fit, issue public reports evaluating compliance with this ordinance by the City or any Department, Office, or Official thereof.~~

~~(d) The Commission shall approve by laws specifying a general schedule for meetings, requirements for attendance by its members, and procedures and criteria for removing members for non-attendance as well as all enforcement petition and complaint procedures. The schedule shall provide for monthly meetings. A meeting shall be canceled if there is no matter pending.~~

The primary regulatory and enforcement body of the Sunshine Ordinance shall be the Open Government Commission formed pursuant to Section 2-22 (Open Government Commission) of Article II (Boards and Commissions).

Section 5. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

\_\_\_\_\_  
Presiding Officer of the Council

Attest:

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda